



March 27, 2003

Ms. Delores Brown, Chief
Mitigation and Restoration Branch
Department of Water Resources
3251 S Street
Sacramento, CA 95816

Subject: Scoping Comments for EIR for Monterey Amendment to the State Water Project Contracts (including Kern Water Bank Transfer) and Other Contract Amendments and Associated Actions, as Part of a Proposed Settlement¹

Dear Ms. Brown:

Environmental Defense appreciates the opportunity to provide comments on the Monterey Plus EIR. While the proposed contract amendments would provide significant benefit to urban and agricultural contractors through improved supply allocation and financing provisions of the State Water Project (SWP), there is no apparent benefit to the environment. Environmental Defense is extremely concerned about the existing tentative state of environmental assurances in place to protect and restore fishery populations in the San Francisco Bay-Delta and Central Valley Watershed and believes that the SWP has a responsibility to provide and guarantee such assurances. Therefore, Environmental Defense asks that the Monterey Plus EIR include one or more alternatives that would incorporate fishery protection measures, beyond those required in the 1995 Water Quality Control Plan.

Environmental Defense has been interested in the Monterey Agreement process from the beginning, but was precluded from participation in the discussions that led to the agreement. We did express, however, our views on SWP financing and the Monterey agreement twice before State legislative committees at the time of the agreement. In August 1994, John Krautkraemer presented *Options for Financing California's Water Projects*², and in 1995, David Yardas presented *The Monterey Agreement Principles: Issues, Concerns, and Opportunities*³ (both are attached).

¹ The Shorthand "Monterey Plus" will hereinafter be used in lieu of the lengthy title.

² Testimony of Environmental Defense Fund on the "Options for Financing California's Water Project", John Krautkraemer, Senate Committee on Agriculture and Water Resources, August 1, 1994.

³ Testimony of Environmental Defense Fund on "The Monterey Agreement Principals: Issues, Concerns, and Opportunities", David Yardas, Joint Hearing of Senate Committee on Agriculture and Water Resources and Assembly Committee on Water Parks and Wildlife, November 17, 1995.

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The views we expressed in 1994-1995 have not changed. Environmental Defense still believes that a significant portion of the Monterey Agreement's financial benefits should be dedicated to the environment that has been greatly impacted by SWP development and operations. These funds could be used to buy water for fishery protection and restoration, either by augmenting streamflow in harmony with fishery needs or by reducing Delta exports, when entrainment reaches high levels. We also believe that it would be appropriate to dedicate some of the projects entitlement to the environment, which could also be used directly to increase streamflow or to reduce exports.

These two key mechanisms are, of course, presently used by CALFED's Environmental Water Account (EWA) to accommodate operational flexibility to protect fisheries. The key difference, of course, is that the EWA's current funding is an awkward combination of bond funding and legislative appropriations and its long-term funding is entirely uncertain. If this operational flexibility were instead built into the operations of the SWP, two problems would be solved. First, the certainty of long-term funding would no longer be an issue. And secondly, the contractors who benefit from the SWP would directly pay for their share of mitigation, rather than shifting that burden onto the taxpayer.

Environmental Defense firmly believes it is imperative to increase the operational flexibility of major water projects to protect and restore fisheries and ecosystem health in the San Francisco Bay-Delta estuary and Central Valley watershed. We are not convinced, however, that the EWA, as it exists today, is an appropriate long-term solution in this ongoing effort. In particular, the looming South Delta Improvements Program is expected to place an even greater burden on EWA assets. Instead, we believe that similar fisheries and ecosystem objectives can be met more appropriately through operational flexibility and user fees provided by the contractors who directly benefit from the SWP. To this end, we ask that the Monterey Plus EIR include alternatives that significantly increase project flexibility to accommodate environmental objectives.

Thank you for considering these views.

Sincerely,



Spreck Rosekrans
Senior Analyst